

ESTTA Tracking number: **ESTTA215240**

Filing date: **06/03/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	Geemarc Telecom International, Ltd.
Granted to Date of previous extension	06/21/2008
Address	1902 Mass Mutual Tower, 38 Floucester Rd Wanchai, HONG KONG

Name	Geemarc Telecom S.A.
Granted to Date of previous extension	06/21/2008
Address	5 Swallow Court Swallowfields Welwyn Garden City, Hertfordshire, AL7 1SB UNITED KINGDOM

Name	Sonic Alert, Inc.
Granted to Date of previous extension	06/21/2008
Address	1050 E. Maple Road Troy, MI 48083 UNITED STATES

Attorney information	Richard W. Hoffmann Reising, Ethington, Barnes, Kisselle, P.C. P.O. Box 4390 Troy, MI 48099-4390 UNITED STATES hoffmann@reising.com Phone:248 689 3500
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Applicant Information

Application No	77200694	Publication date	04/22/2008
Opposition Filing Date	06/03/2008	Opposition Period Ends	06/21/2008
Applicant	Clearsounds Communications, Inc. 8160 Madison Avenue Burr Ridge, IL 60527 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. First Use: 2006/06/15 First Use In Commerce: 2006/06/15
 All goods and services in the class are opposed, namely: Telephones; Corded and cordless telephone sets; Telephone apparatus and equipment, namely, transmitters, receivers, amplifiers, caller identification boxes, phone answering apparatus and speaker phones; Telephone assistive equipment for those with limited or impaired hearing, namely telephones with ring signaling features that notify users that the telephone is ringing using visual signals, vibration, or shaking, sound enhancers or amplifiers not for medical purposes; batteries for telephones and telephone equipment

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Other	Applicant is not the owner.

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	CLEAR SOUND CLEAROUNDS CS CLEAROUNDS (AND DESIGN) CLEAROUNDS HEAR HOW GOOD LIFE CAN BE GEEMARC CLEAROUND		
Goods/Services	Telephones; Corded and cordless telephone sets; Telephone apparatus and equipment, namely, transmitters, receivers, amplifiers; Telephone assistive equipment for those with limited or impaired hearing, namely telephones with ring signaling features that notify users that the telephone is ringing using visual signals, vibration, or shaking, sound enhancers or amplifiers not for medical purposes		

Related Proceedings	Sonic Alert, Inc., Geemarc Telecom, SA, and Geemarc Telecom International, Ltd. v. Hitec Group International, Inc. and Clearounds Communications, Inc., United States District Court for Eastern District of Michigan, Civil Action No. 2:08-cv-10117
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Attachments	Notice-of-Opposition.pdf (31 pages)(504750 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Richard W. Hoffmann/
Name	Richard W. Hoffmann
Date	06/03/2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. : 77/200,694
For the mark : CS CLEAROUNDS
Published in the Official Gazette on : April 22, 2008

GEEMARC TELECOM, S.A.,
GEEMARC TELECOM INTERNATIONAL, INC.,
and SONIC ALERT, INC.,
Opposers,

v.

CLEAROUNDS COMMUNICATIONS, INC.,
Applicant.

NOTICE OF OPPOSITION

Geemarc Telecom, S.A., a foreign corporation having substantial business locations in France and the United Kingdom; Geemarc Telecom International, Ltd., a foreign corporation having a principal business location in Hong Kong (Geemarc Telecom, S.A. and Geemarc Telecom International, Ltd. may together be referred to hereafter as “Geemarc”); and Sonic Alert, Inc., a Michigan corporation having a principal business location at 1050 E. Maple Road, Troy, Michigan 48083 (with Geemarc Telecom, S.A.; Geemarc Telecom International, Ltd.; and Sonic Alert, Inc. collectively referred to as “Opposers”) believe that they will be damaged by the registration in International Class 9 of the mark CS CLEAROUNDS shown in Application Serial No. 77/200,694 filed by Clearounds Communications, Inc. (“Applicant”), an Illinois Corporation with a mailing address of 8160 S. Madison Street, Burr Ridge, Illinois 60527, and published in the Official Gazette on April 22, 2008. Accordingly, Geemarc hereby opposes the application.

The grounds for the opposition are as follows.

General Allegations

1. The Applicant seeks to register CS CLEARSOUNDS as a trademark for:

Telephones; Corded and cordless telephone sets; Telephone apparatus and equipment, namely, transmitters, receivers, amplifiers, caller identification boxes, phone answering apparatus and speaker phones; Telephone assistive equipment for those with limited or impaired hearing, namely telephones with ring signaling features that notify users that the telephone is ringing using visual signals, vibration, or shaking, sound enhancers or amplifiers not for medical purposes; batteries for telephones and telephone equipment.

as shown by the application filed for said mark on June 7, 2007 and published in the Official Gazette on April 22, 2008.

2. Since at least 1992, Geemarc has used the name GEEMARC CLEAR SOUND in the United Kingdom and elsewhere in connection with telephone products.

3. Geemarc now uses the name GEEMARC CLEAR SOUND in well over twenty (20) countries around the world.

4. Geemarc has trademark Registration No. 1,493,889 in the United Kingdom for the mark GEEMARC CLEAR SOUND (Appendix A).

5. Hitec Group International, Inc. ("Hitec") is a company having owners and officers common with Applicant.

6. Geemarc offered to sell telephone equipment in the United States using the name GEEMARC CLEAR SOUND beginning in early April 2003 or earlier, and Applicant knew this.

7. Geemarc's use and registration pre-date any use of the CS CLEARSOUNDS name by Applicant.

8. At the time Geemarc started selling telephones into the United States, it had already been using the name GEEMARC CLEAR SOUND in several countries in Europe, and had sold hundreds of thousands of telephones with this brand.

9. Geemarc sold Hitec telephones with the GEEMARC CLEAR SOUND name on the packaging in April 2003.

10. At that time, Hitec personnel knew that Geemarc had also offered to sell the telephones to other companies in the United States.

11. At that same time, in early April 2003, Applicant had not used the name CS CLEAROUNDS in connection with telephones.

12. Geemarc is the owner of the mark GEEMARC CLEAR SOUND in the United States for use in connection with telephones and telephone equipment.

13. Thereafter, Geemarc sold telephones and telephone equipment into the United States under the name CLEAROUNDS.

14. Geemarc is the owner of the name and mark CLEAROUNDS for telephones, telephone equipment and apparatus and a variety of related equipment.

15. Geemarc originally sold the CLEAROUNDS telephones and telephone equipment through Hitec. At some point thereafter, Geemarc sold the CLEAROUNDS telephone and telephone equipment through Applicant, which is a company related to Hitec.

16. Unbeknownst to Geemarc, Hitec registered the name CLEAROUNDS in the United States Trademark Office and declared itself as the owner of the registration and the underlying trademark -- as shown by Registration No. 2,955,405 (Appendix B, hereafter “the ‘405 Registration”). The ‘405 Registration is now owned by Applicant and is the subject of a lawsuit filed January 8, 2008 in the United States District Court for the Eastern District of Michigan, titled Sonic Alert, Inc., Geemarc Telecom, SA, and Geemarc Telecom International, Ltd. v. Hitec Group International, Inc. and Clearounds Communications, Inc., Civil Action No. 2:08-cv-10117 (hereafter “the district court litigation”). The Complaint includes a count for cancellation of the ‘405 Registration.

17. Geemarc also sells and has sold, under the names CLEARSOUNDS and CLEAR SOUND, in the United States, other telephone apparatus and equipment including amplifiers and telephone assistive equipment for those with limited or impaired hearing, namely telephones with ring signaling features that notify users that the telephone is ringing using visual signals, vibration, or shaking.

18. Geemarc is discontinuing sales of telephones and related products to Applicant.

19. Sonic Alert, Inc. sells phones and related products under Geemarc's CLEAR SOUND trademark in the United States pursuant to license.

Ownership

20. Opposers repeat and reallege all the averments of Paragraphs 1 - 19.

21. Geemarc made the first telephones and telephone apparatus and equipment that Applicant sold under the CS CLEARSOUNDS mark in the United States.

22. Geemarc first used CS CLEARSOUNDS on or in connection with most of the goods claimed by Applicant including, inter alia, telephones; corded and cordless telephone sets; telephone apparatus and equipment, namely, amplifiers, telephone assistive equipment for those with limited or impaired hearing, namely telephones with ring signaling features that notify users that the telephone is ringing using visual signals, vibration, or shaking.

23. Pictures of the packaging bearing the CS CLEARSOUNDS mark on four separate telephone models, including corded and cordless telephone models, are provided in paragraphs 23a – 23d below. Each of the telephones is manufactured by Geemarc.

23a.



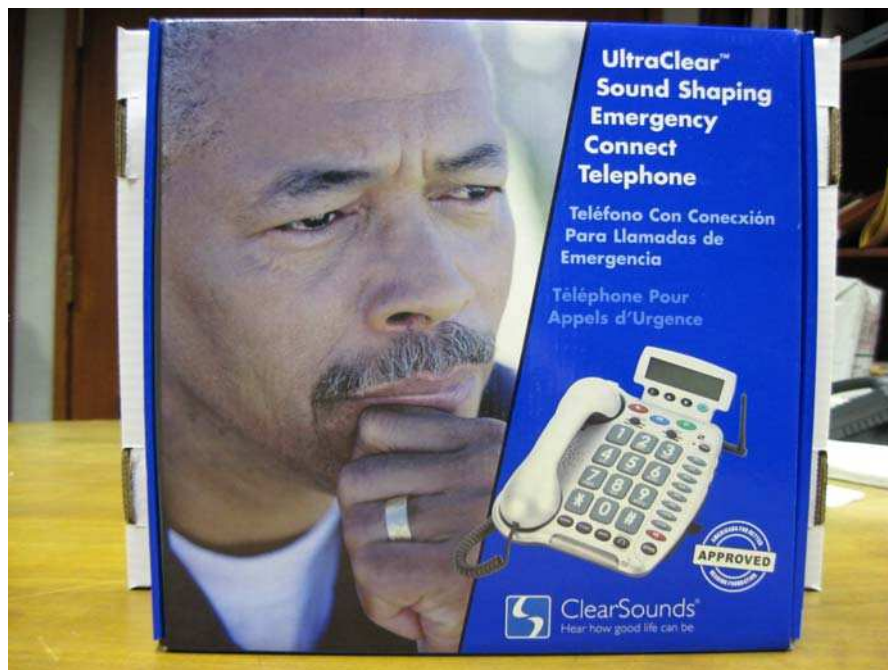
23b.



23c.



23d.



24. Applicant was merely a customer of Geemarc's telephones and telephone equipment in the United States bearing the CS CLEARSOUNDS mark.

25. Applicant had no significant role in the design or manufacture of the telephones sold under the CS CLEARSOUNDS mark as shown in paragraphs 23a – 23d.

26. Applicant had no significant role in the design of the other telephone equipment that Geemarc sold it.

27. There has never been an agreement between Opposers Geemarc and the Applicant as to ownership of the CS CLEARSOUNDS name in the United States.

28. Geemarc is the owner of the name CS CLEARSOUNDS for telephones and related equipment.

29. Applicant now sells telephones manufactured by others than Geemarc that bear the CS CLEARSOUNDS name.

Fraud

Applicant Does Not Use The Mark On All The Goods

30. Opposers repeat and reallege all the averments of Paragraphs 1 - 29.

31. Paragraph 1 above indicates all of the goods listed in the CS CLEARSOUNDS application.

32. Applicant, through its president, Michele U. Ahlman, signed a Declaration on June 7, 2007 that the statements made of her own knowledge are true and that all statements made on information and belief are believed to be true. (Appendix C)

33. Applicant does not use the mark in connection with each of the listed goods.

34. Applicant does not use the mark on caller identification boxes or related packaging that is independent of telephones.

35. Applicant does not use the mark on telephone answering apparatus or related packaging that is independent of telephones.

36. Applicant does not use the mark on batteries for telephones or telephone equipment or related packaging.

37. Applicant and Michele U. Ahlman knew or should have known that her statement was not true because Applicant is not using the name in connection with, inter alia, caller identification boxes and/or telephone answering apparatus that are independent of telephones or on batteries for telephones or telephone equipment.

Applicant Misrepresented Its Ownership Claim

Applicant Does Not Own The '405 Registration

38. Opposers repeat and reallege all the averments of Paragraphs 1 - 37.

39. On February 18, 2008, Applicant's Representative William Wentz, filed a Response to Office Action (Appendix D). In this Response, Applicant's Representative plainly stated that "Applicant claims ownership of U.S. Registration Number(s)...2955405." (Appendix D, pp 1-2). Applicant's Representative, Mr. Wentz signed a declaration (Appendix D, p 2) swearing to the veracity of the ownership claim as well as stating that "To the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive..."

40. Applicant and its representative, Mr. Wentz, are aware that the above statements are not true in that, inter alia:

(a). in the district court action, the court, in denying Applicant's motion for preliminary injunction, called into question ownership of the mark CLEAROUNDS, which is the subject of United States Registration No. 2,955,405 (Appendix E, p 98, excerpt of Preliminary Injunction Hearing). The court said ownership "is completely up in the air," and similar such statements (Appendix E, p 97:11-13). Applicant's Representative, Mr. Wentz, who executed the declaration, was present at this hearing; and

(b). Applicant is aware that Geemarc is the first user and owner of the CLEAR SOUND and CLEAROUNDS marks in the United States.

41. Applicant and its Representative Mr. Wentz knew or should have known that the district court specifically called into question Applicant's ownership of the CLEAROUNDS mark and the 2,955,405 Registration.

42. Applicant and its Representative Mr. Wentz falsely represented that it owned the CLEAROUNDS mark and the 2,955,405 Registration.

43. Applicant and its Representative Mr. Wentz knew or should have known that the other declaration statements were false because Geemarc also used the mark GEEMARC CLEAR SOUND in the United States in connection with the goods before Applicant used the mark CS CLEAROUNDS in connection with the goods.

Applicant Was Not The First User Of The CS CLEAROUNDS Mark

44. Opposers repeat and reallege all the averments of Paragraphs 1 - 43.

45. Applicant, through its President, Michele U. Ahlman, signed a Declaration on June 7, 2007 stating, inter alia, (Appendix C):

she believes the Applicant to be the owner of the trademark...sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b),...She believes applicant to be entitled to use such mark in commerce; to the best of ... her knowledge and belief, no other person,

firm, corporation or association has the right to use the mark in commerce...

46. Applicant, through its Representative, Mr. Wentz, signed a Declaration on February 18, 2008 stating, inter alia, (Appendix D):

he ... believes the Applicant to be the owner of the trademark...sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b), He ... believes applicant to be entitled to use such mark in commerce; to the best of his ... knowledge and belief, no other person, firm, corporation or association has the right to use the mark in commerce...

47. At the time of their respective Declarations, Michele U. Ahlman and Mr. Wentz knew or should have known that Geemarc was the manufacturer and, therefore, the first user and owner of goods bearing the CS CLEARSOUNDS mark in the United States.

48. Michele U. Ahlman and/or Mr. Wentz falsely represented that no other person, firm, corporation or association had the right to use the CS CLEARSOUNDS mark in commerce.

Likelihood Of Confusion

49. Opposers repeat and reallege all the averments of Paragraphs 1 - 48.

50. Applicant is now offering to sell telephones and telephone apparatus and equipment under the name of CS CLEARSOUNDS that were not manufactured by Geemarc.

51. Applicant's use of the name CS CLEARSOUNDS in commerce in connection with the aforesaid goods is likely to cause confusion, mistake or to deceive in violation of §2(d) of The Lanham Act (15 U.S.C. §1052).

WHEREFORE, Opposers request that the registration of the CS CLEARSOUNDS mark for the following goods:

Telephones; Corded and cordless telephone sets; Telephone apparatus and equipment, namely, transmitters, receivers, amplifiers, caller identification boxes, phone answering apparatus and speaker phones; Telephone assistive equipment for those with limited or impaired hearing, namely telephones with ring signaling features that notify users that the telephone is ringing using visual signals, vibration, or shaking, sound enhancers or amplifiers not for medical purposes; batteries for telephones and telephone equipment

sought by Applicant in United States Application Serial No. 77/200,694 be refused and that this Notice of Opposition be sustained in favor of Opposers.

Respectfully submitted,

by /s/ Richard W. Hoffmann
ANDREW M. GROVE (Reg. No. 39,697)
RICHARD W. HOFFMANN (Reg. No. 33,711)
Reising Ethington Barnes Kisselle PC
201 West Big Beaver Road, Suite 400
PO Box 4390
Troy, Michigan 48099-4390
Telephone: 248-689-3500
Facsimile: 248-689-4071
Email: grove@reising.com; hoffmann@reising.com

*Counsel for Opposers Geemarc Telecom, SA.,
Geemarc Telecom International, Inc., and Sonic Alert, Inc.,*

Date: June 3, 2008

Exhibit A

Geemarc UK Registration No. 1,493,889



Trade mark details as at 02 June 2008

Case details for Trade Mark 1493889

[Case history](#)

Licensee details, where held, are available via Case history

Mark

Mark text:

GEEMARC CLEAR SOUND

Status

Status:

Registered

Class:

09

Relevant dates

Filing date:

10 March 1992

Next renewal date:

10 March 2009

Registration date:

11 November 1994

Publication in Trade Marks Journal

First advert:

Journal:

6043

Page:

5855

Publication date:

21 September 1994

Registration:

Journal:

6058

Publication date:

18 January 1995

Renewal:

Journal:

6272

Publication date:
14 April 1999

Expiry:

Journal:
6272

Publication date:
14 April 1999

Assignment:

Journal:
6517

Publication date:
06 February 2004

List of goods or services

Class 09:

Telephone and cordless telephone apparatus; parts and fittings therefor; all included in Class 9.

Names and addresses

Proprietor:

Geemarc Telecom International Limited
1902 Mass Mutual Protective Tower, 38 Gloucester Road, Wanchai, Hong Kong

Incorporated country:

Hong Kong Special Admin. Region of the Peoples Rep. of China

Residence country:

Hong Kong Special Admin. Region of the Peoples Rep. of China

Customer's ref:

DB

Effective assignment date:

30 December 2003

ADP number:

0844336001

Other cases owned by this proprietor

Agent:

Brookes Batchellor LLP
1 Boyne Park, Tunbridge Wells, Kent, TN4 8EL

ADP number:

0000471002

Service:

Brookes Batchellor LLP
1 Boyne Park, Tunbridge Wells, Kent, TN4 8EL

ADP number:

0000471002

Other particulars

Disclaimer:

Registration of this mark shall give no right to the exclusive use of the words "Clear Sound".

Earlier rights notification

Opted in for notifications

- [Explanation of terms used on this page](#)

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UK Intellectual Property Office is an operating name of the Patent Office



Exhibit B

U.S. Registration No. 2,955,405

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

United States Patent and Trademark Office

Reg. No. 2,955,405

Registered May 24, 2005

**TRADEMARK
PRINCIPAL REGISTER**

CLEAROUNDS

HITEC GROUP INTERNATIONAL, INC. (ILLI-
NOIS CORPORATION)
8160 MADISON AVENUE
BURR RIDGE, IL 60527

FIRST USE 1-30-2004; IN COMMERCE 1-30-2004.

SN 76-506,432, FILED 4-14-2003.

FOR: TELEPHONE EQUIPMENT, NAMELY
TRANSMITTERS AND RECEIVERS, IN CLASS 9
(U.S. CLS. 21, 23, 26, 36 AND 38).

GIANCARLO CASTRO, EXAMINING ATTORNEY

Exhibit C

Ahlman Declaration

Trademark/Service Mark Application, Principal Register

Serial Number: 77200694
Filing Date: 06/07/2007

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77200694
MARK INFORMATION	
*MARK	\\TICRS2\EXPORT13\772\006 \77200694\xml1\APP0002.JPG
SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	ClearSounds
COLOR MARK	NO
DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of a stylized "C" and "S" within a square with rounded corners together with the word "ClearSounds".
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	935 x 275
APPLICANT INFORMATION	
*OWNER OF MARK	Clearsounds Communications, Inc.
*STREET	8160 Madison Avenue
*CITY	Burr Ridge
*STATE (Required for U.S. applicants)	Illinois
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	60527
LEGAL ENTITY INFORMATION	
*TYPE	CORPORATION
*STATE/COUNTRY OF INCORPORATION	Illinois
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	009
DESCRIPTION	Telephones; Corded and cordless telephone sets; Telephone apparatus and equipment, namely, transmitters, receivers, amplifiers, caller identification displays, phone answering

	apparatus and speaker phone equipment; Telephone assistive equipment for those with limited or impaired hearing, namely ring signaling (visual, vibrating, or shaking) devices, sound enhancers, amplifiers. Batteries for telephones and telephone equipment.
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 06/15/2006
FIRST USE IN COMMERCE DATE	At least as early as 06/15/2006
SPECIMEN FILE NAME(S)	\\TICRS2\EXPORT13\772\006 \77200694\xml1\APP0003.JPG
SPECIMEN DESCRIPTION	telephone
ATTORNEY INFORMATION	
NAME	William H. Wentz
FIRM NAME	Huck Bouma, PC
STREET	184 Shuman Boulevard
INTERNAL ADDRESS	Suite 250
CITY	Naperville
STATE	Illinois
COUNTRY	United States
ZIP/POSTAL CODE	60563
PHONE	630-527-8552, ext. 304
FAX	630-527-8636
EMAIL ADDRESS	wwentz@huckbouma.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
CORRESPONDENCE INFORMATION	
NAME	William H. Wentz
FIRM NAME	Huck Bouma, PC
STREET	184 Shuman Boulevard
INTERNAL ADDRESS	Suite 250
CITY	Naperville
STATE	Illinois
COUNTRY	United States
ZIP/POSTAL CODE	60563
PHONE	630-527-8552, ext. 304
FAX	630-527-8636

EMAIL ADDRESS	wwentz@huckbouma.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
TOTAL FEE DUE	325
SIGNATURE INFORMATION	
SIGNATURE	/micheleuahlman/
SIGNATORY'S NAME	Michele U. Ahlman
SIGNATORY'S POSITION	President
DATE SIGNED	06/07/2007
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Jun 07 17:38:22 EDT 2007
TEAS STAMP	USPTO/BAS-206.242.13.33-2 0070607173822315334-77200 694-370e4e69d3b3822e68443 bf5fad2dfe6b48-CC-2260-20 070607162436669046

Trademark/Service Mark Application, Principal Register

Serial Number: 77200694

Filing Date: 06/07/2007

To the Commissioner for Trademarks:

MARK: ClearSounds (stylized and/or with design, see mark)

The literal element of the mark consists of ClearSounds. The mark consists of a stylized "C" and "S" within a square with rounded corners together with the word "ClearSounds".

The applicant, Clearsounds Communications, Inc., a corporation of Illinois, having an address of 8160 Madison Avenue, Burr Ridge, Illinois, United States, 60527, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

International Class 009: Telephones; Corded and cordless telephone sets; Telephone apparatus and equipment, namely, transmitters, receivers, amplifiers, caller identification displays, phone answering apparatus and speaker phone equipment; Telephone assistive equipment for those with limited or impaired hearing, namely ring signaling (visual, vibrating, or shaking) devices, sound enhancers, amplifiers. Batteries for telephones and telephone equipment.

Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, or the applicant's predecessor in interest used the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

In International Class 009, the mark was first used at least as early as 06/15/2006, and first used in commerce at least as early as 06/15/2006, and is now in use in such commerce. The applicant is submitting or will submit one specimen for *each class* showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) telephone.

Specimen File1

The applicant hereby appoints William H. Wentz of Huck Bouma, PC, Suite 250, 184 Shuman Boulevard, Naperville, Illinois, United States, 60563 to submit this application on behalf of the applicant.

Correspondence Information: William H. Wentz
Suite 250
184 Shuman Boulevard
Naperville, Illinois 60563
630-527-8552, ext. 304(phone)
630-527-8636(fax)
wwentz@huckbouma.com (authorized)

A fee payment in the amount of \$325 will be submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /micheleuahlman/ Date Signed: 06/07/2007

Signatory's Name: Michele U. Ahlman

Signatory's Position: President

RAM Sale Number: 2260

RAM Accounting Date: 06/08/2007

Serial Number: 77200694

Internet Transmission Date: Thu Jun 07 17:38:22 EDT 2007

TEAS Stamp: USPTO/BAS-206.242.13.33-2007060717382231

5334-77200694-370e4e69d3b3822e68443bf5fa

d2dfe6b48-CC-2260-20070607162436669046



ClearSounds

Exhibit D

Wentz Declaration

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77200694
LAW OFFICE ASSIGNED	LAW OFFICE 105
MARK SECTION (current)	
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	CS CLEARSOUNDS
COLOR(S) CLAIMED (If applicable)	Color is not claimed as a feature of the mark.
DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of a stylized "C" and "S" within a square with rounded corners together with the word "ClearSounds".
MARK SECTION (proposed)	
MARK FILE NAME	\\TICRS2\EXPORT15\772\006 \77200694\xml1\ROA0002.JP G
STANDARD CHARACTERS	NO
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	CS CLEARSOUNDS
COLOR MARK	YES
COLOR(S) CLAIMED (If applicable)	The color(s) Color is not claimed as a feature of the mark. is/are claimed as a feature of the mark.
DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of a stylized "C" and "S" within a square with rounded corners together with the word "ClearSounds".
PIXEL COUNT ACCEPTABLE	YES
PIXEL COUNT	624 x 792
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	009
DESCRIPTION	
Telephones; Corded and cordless telephone sets; Telephone apparatus and equipment, namely, transmitters, receivers, amplifiers, caller identification displays, phone answering apparatus and speaker phone equipment; Telephone assistive equipment for those with limited or impaired hearing, namely ring signaling (visual, vibrating, or shaking) devices, sound enhancers, amplifiers. Batteries for telephones and telephone equipment	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 06/15/2006
FIRST USE IN COMMERCE DATE	At least as early as 06/15/2006
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	009

Input Field	Entered
DESCRIPTION	
Telephones; Corded and cordless telephone sets; Telephone apparatus and equipment, namely, transmitters, receivers, amplifiers, caller identification boxes, phone answering apparatus and speaker phones; Telephone assistive equipment for those with limited or impaired hearing, namely telephones with ring signaling features that notify users that the telephone is ringing using visual signals, vibration, or shaking, sound enhancers or amplifiers not for medical purposes; batteries for telephones and telephone equipment	
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 06/15/2006
FIRST USE IN COMMERCE DATE	At least as early as 06/15/2006
ADDITIONAL STATEMENTS SECTION	
PRIOR REGISTRATION(S)	"Applicant claims ownership of U.S. Registration Number(s) 2161696, 2955405."
SIGNATURE SECTION	
DECLARATION SIGNATURE	/williamhwentz/
SIGNATORY'S NAME	William H. Wentz
SIGNATORY'S POSITION	Attorney of Record
DATE SIGNED	02/18/2008
RESPONSE SIGNATURE	/williamhwentz/
SIGNATORY'S NAME	William H. Wentz
SIGNATORY'S POSITION	Attorney of Record
DATE SIGNED	02/18/2008
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Feb 18 15:44:55 EST 2008
TEAS STAMP	USPTO/ROA-206.242.13.33-2 0080218154455615725-77200 694-41056d326e8d018a144ea 1f66e4b97bbf1-N/A-N/A-200 80218153022279437

Response to Office Action

To the Commissioner for Trademarks:

Application serial no. **77200694** has been amended as follows:

MARK

Applicant proposes to amend the mark as follows:

Current: CS CLEARSOUNDS (Stylized and/or with Design)

Color is not claimed as a feature of the mark.

The mark consists of a stylized "C" and "S" within a square with rounded corners together with the word "ClearSounds".

Proposed: CS CLEARSOUNDS (Stylized and/or with Design, see mark)

The color(s) Color is not claimed as a feature of the mark. is/are claimed as a feature of the mark. The mark consists of a stylized "C" and "S" within a square with rounded corners together with the word "ClearSounds".

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 009 for Telephones; Corded and cordless telephone sets; Telephone apparatus and equipment, namely, transmitters, receivers, amplifiers, caller identification displays, phone answering apparatus and speaker phone equipment; Telephone assistive equipment for those with limited or impaired hearing, namely ring signaling (visual, vibrating, or shaking) devices, sound enhancers, amplifiers. Batteries for telephones and telephone equipment

Original Filing Basis:

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 06/15/2006 and first used in commerce at least as early as 06/15/2006, and is now in use in such commerce.

Proposed: Class 009 for Telephones; Corded and cordless telephone sets; Telephone apparatus and equipment, namely, transmitters, receivers, amplifiers, caller identification boxes, phone answering apparatus and speaker phones; Telephone assistive equipment for those with limited or impaired hearing, namely telephones with ring signaling features that notify users that the telephone is ringing using visual signals, vibration, or shaking, sound enhancers or amplifiers not for medical purposes; batteries for telephones and telephone equipment

Filing Basis: Section 1(a), Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended. The mark was first used at least as early as 06/15/2006 and first used in commerce at least as early as 06/15/2006, and is now in use in such commerce.

ADDITIONAL STATEMENTS

Claim of Prior Registration(s)

"Applicant claims ownership of U.S. Registration Number(s) 2161696, 2955405."

SIGNATURE(S)

Declaration Signature

If the applicant is seeking registration under Section 1(b) and/or Section 44 of the Trademark Act, the applicant had a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services as of the filing date of the application. 37 C.F.R. Secs. 2.34(a)(2)(i); 2.34 (a)(3)(i); and 2.34(a)(4)(ii). If the applicant is seeking registration under Section 1(a) of the Trademark Act, the mark was in use in commerce on or in connection with the goods or services listed in the application as of the application filing date. 37 C.F.R. Secs. 2.34(a)(1)(i). The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; that if the original application was submitted unsigned, that all statements in the original application and this submission made of the declaration signer's knowledge are true; and all statements in the original application and this submission made on information and belief are believed to be true.

Signature: /williamhwentz/ Date: 02/18/2008

Signatory's Name: William H. Wentz

Signatory's Position: Attorney of Record

Response Signature

Signature: /williamhwentz/ Date: 02/18/2008

Signatory's Name: William H. Wentz

Signatory's Position: Attorney of Record

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 77200694

Internet Transmission Date: Mon Feb 18 15:44:55 EST 2008

TEAS Stamp: USPTO/ROA-206.242.13.33-2008021815445561

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4b97bbf1-N/A-N/A-20080218153022279437

Exhibit E

Excerpt from Preliminary Injunction Hearing

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SONIC ALERT, INCORPORATED,
et al.,

Plaintiffs,

v.

HONORABLE ANNA DIGGS TAYLOR

No. 08-10117

HITEC GROUP INTERNATIONAL,
INCORPORATED, et al.,

Defendants.

_____ /

**DEFENDANTS' MOTION FOR TEMPORARY RESTRAINING ORDER
AND PERMANENT INJUNCTIVE RELIEF**

Tuesday, February 5, 2008

Appearances:

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Attorneys for Defendants

- - -
To obtain a certified transcript, contact:

Sheri K. Ward, Official Court Reporter
Theodore Levin United States Courthouse
231 West Lafayette Boulevard, Room 219
Detroit, Michigan 48226
(313)965-4401 • sward@fedreporter.com

Proceedings recorded by mechanical stenography.
Transcript produced by computer-aided transcription.

1 to supply movants with the telephones and other products
2 that they have ordered and may continue to order pending a
3 resolution of this case on the merits in conformity with
4 established course of dealing among the parties.

5 The requirements are four for consideration of
6 injunctive relief, and they are the probability of
7 prevailing on the merits, the irreparable harm to be
8 suffered without an order, the balance of harm to be
9 sustained by the parties by the entry or refusal to do so of
10 an order, and the public interest that would be served.

11 [REDACTED]
12 [REDACTED]
13 [REDACTED]. [REDACTED]
14 [REDACTED].

15
16
17
18 also a requirement that goods be sold in this country for a
19 registration in this country.

20 Each suggests reasons why the mark belongs to
21 them. The contract is totally unwritten. There is an oral
22 contract made many years ago between defendant and plaintiff
23 here.

24 I'm not sure as to whether these goods were really
25 made according to the specifications of the, the defendant

1 as were required or as would be required to overcome the
2 presumption of ownership, and I'm not sure that goods were
3 not sold in the United States before, before this contract
4 was entered.

5 The irreparable harm, the Court is not, cannot see
6 that the defendant would suffer terrible irreparable harm or
7 any harm that could not be made up for by damages. There
8 has been a very substantial delay on all sides before coming
9 to the Court or seeking any such relief of the Court, which
10 would suggest that the harm to be sustained is not
11 irreparable.

12 The balance of harms could be enormous considering
13 that the enjoining of the meaning of a contract that the
14 Court has not even seen refusing to supply movants with the
15 telephones and other products that they have ordered and may
16 continue to order in conformity with established course of
17 dealing among the parties is one factor on the injunctive
18 relief list.

19 The public interest would not be served, of
20 course, in enforcing anything other than what is the legal
21 requirement here, but because there is no written contract
22 between the parties, [REDACTED]
23 [REDACTED], for that
24 matter, because the balance of harms would be enormous and
25 because irreparable harm is not clear and there has been a